

## Department of Health and Human Services

## §31.11

until the issuance of a written decision by the hearing officer which determines that a debt or part of a debt is past due and legally enforceable.

### §31.7 Application of offset funds: Single debt.

If the debtor does not timely notify the Secretary that the debtor is exercising a right described in §31.3, the Secretary will notify the IRS of the debt 60 calendar days from the date of the Department's Notice of Intent, and will request that the amount of the debt be offset against any amount payable by the IRS as refund of Federal taxes paid. Normally, recovered funds will be applied first to any special charges provided for in HHS regulations or contracts, then to interest, and finally, to the principal owed by the debtor.

### §31.8 Application of offset funds: Multiple debts.

The Secretary will use the procedures set out in §31.7 for the offset of multiple debts. However, when collecting on multiple debts the Secretary will apply the recovered amounts against the debts in order in which the debts accrued.

### §31.9 Application of offset funds: Tax refund insufficient to cover amount of debt.

If a tax refund is insufficient to satisfy a debt in a given tax year, the Secretary will recertify to the IRS on the following year to collect further on the debt. If, in the following year, the debt has become legally unenforceable because of the lapse of the statute of limitations, the debt will be reported to the IRS as a discharged debt in accordance with §31.1(d) and 45 CFR 30.31(b).

### §31.10 Time limitation for notifying the IRS to request offset of tax refunds due.

(a) The Secretary may not initiate offset of tax refunds due to collect a debt for which authority to collect arises under 31 U.S.C. 3716 more than 10 years after the Secretary's right to collect the debt first accrued, unless facts material to the Secretary's right to collect the debt were not known and could not reasonably have been known

by the officials of the Department who were responsible for discovering and collecting such debts.

(b) When the debt first accrued is determined according to existing law regarding the accrual of debts. (See, for example, 28 U.S.C. 2415.)

### §31.11 Correspondence with the Department.

(a) All correspondence from the debtor to the Secretary concerning the right to review as described in §31.3 shall be addressed to the appropriate office of the Department at the following locations:

*Office of the Secretary:* Office of Financial Operations, Room 705D, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201

*Public Health Service:* PHS Claims Office, Room 18-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

*Social Security Administration:* SSA Claims Office, P.O. Box 17042, Baltimore, Maryland 21235

*Health Care Financing Administration:* CMS Claims Office, Division of Accounting, P.O. Box 17255, Baltimore, Maryland 21203

*Family Support Administration:* FSA Claims Office, Switzer Building, Room 2222, 330 C Street SW., Washington, DC 20201

*Region I:* Office of the General Counsel, John F. Kennedy Federal Building, Room 2047, Boston, Massachusetts 02203

*Region II:* Office of the General Counsel, Jacob K. Javits Federal Building, Room 3908, New York, New York 10278

*Region III:* Office of the General Counsel, 3535 Market Street, Room 9100, P.O. Box 13716, Philadelphia, Pennsylvania 19101

*Region IV:* Office of the General Counsel, 101 Marietta Tower, Room 221, Atlanta, Georgia 30323

*Region V:* Office of the General Counsel, 18th Floor, 300 South Wacker Drive, Chicago, Illinois 60606

*Region VI:* Office of the General Counsel, 1200 Main Tower, Room 1330, Dallas, Texas 75202

*Region VII:* Office of the General Counsel, 601 East 12th Street, Room 535, Kansas City, Missouri 64106

*Region VIII:* Office of the General Counsel, 1961 Stout Street, Room 1106, Denver, Colorado 80294

*Region IX:* Office of the General Counsel, 50 United Nations Plaza, Room 420, San Francisco, California 94102

*Region X:* Office of the General Counsel, 2901 3rd Avenue, Room 580, Seattle, Washington, 98121.

(b) All other correspondence shall be addressed to the appropriate office as

described in paragraph (a) of this section. All requests for review of departmental records must be marked: *Attention: Records Inspection Request*.

## **PART 35—TORT CLAIMS AGAINST THE GOVERNMENT**

### **Subpart A—General**

Sec.

35.1 Scope of regulations.

### **Subpart B—Procedures**

- 35.2 Administrative claim; when presented; place of filing.
- 35.3 Administrative claim; who may file.
- 35.4 Administrative claims; evidence and information to be submitted.
- 35.5 Investigation, examination, and determination of claims.
- 35.6 Final denial of claim.
- 35.7 Payment of approved claims.
- 35.8 Release.
- 35.9 Penalties.
- 35.10 Limitation on Department's authority.

AUTHORITY: Sec. 1(a), 80 Stat. 306; 28 U.S.C. 2672; 28 CFR Part 14.

SOURCE: 32 FR 14101, Oct. 11, 1967, unless otherwise noted.

### **Subpart A—General**

#### **§ 35.1 Scope of regulations.**

The regulations in this part shall apply only to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. sections 2671–2680, accruing on or after January 18, 1967, for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department of Health and Human Services while acting within the scope of his office or employment.

### **Subpart B—Procedures**

#### **§ 35.2 Administrative claim; when presented; place of filing.**

(a) For purposes of the regulations in this part, a claim shall be deemed to have been presented when the Department of Health and Human Services receives, at a place designated in paragraph (b) of this section, an executed Standard Form 95 or other written no-

tification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, for personal injury, or for death, alleged to have occurred by reason of the incident. A claim which should have been presented to the Department but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to the Department as of the date that the claim is received by the Department. A claim mistakenly addressed to or filed with the Department shall forthwith be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final action by the Department Claims Officer or prior to the exercise of the claimant's option to bring suit under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, the Department shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

(c) Forms may be obtained and claims may be filed, with the office, local, regional, or headquarters, of the constituent organization having jurisdiction over the employee involved in the accident or incident, or with the Department of Health and Human Services Claims Officer, Washington, DC 20201.

[32 FR 14101, Oct. 11, 1967, as amended at 35 FR 4517, Mar. 13, 1970]

#### **§ 35.3 Administrative claim; who may file.**

(a) A claim for injury to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his duly authorized agent, or his legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or his legal representative.